

**Amendments To The Drawings**

Two replacement drawing sheets are enclosed, include amended Figures 2 and 3, and respectively replace the two original drawing sheets that included original Figures 2 and 3. In regard to Figure 2, four different occurrences of reference numeral 203 in original Figure 2 have been replaced in amended Figure 2 with reference numerals 203A, 203B, 203C and 203D, respectively. In regard to Figure 3, two different occurrences of reference numeral 302 in original Figure 3 have been replaced in amended Figure 3 with reference numerals 302A and 302B, respectively.

Attachment: Replacement Drawing Sheets 2 and 3

### **REMARKS**

The specification has been amended, Figures 2 and 3 have been amended, and Claims 40 and 75 have been amended. Claims 40-77 are currently in the application, and presented for examination. In view of the foregoing amendments, and the remarks that follow, Applicants respectfully request reconsideration.

#### **Objection to the Drawings**

The Examiner objected to the drawings, indicating that reference numeral 203 was improperly used to identify multiple items in original Figure 2, and that reference numeral 302 was improperly used to identify multiple items in original Figure 3. The foregoing amendments replace four different occurrences of reference numeral 203 in original Figure 2 with respective reference numerals 203A, 203B, 203C and 203D, and replace two different occurrences of reference numeral 302 in original Figure 3 with respective reference numerals 302A and 302B. Applicants are enclosing two replacement drawing sheets that respectively have amended Figures 2 and 3 thereon, and respectfully request that the enclosed drawing sheets be approved and substituted for the corresponding original drawing sheets.

Reference numerals 203 and 302 each appeared once in the specification. The foregoing amendments to paragraphs [0051] and [0051] replace the occurrence of reference numeral 203 with new reference numerals 203A, 203B, 203C and 203D, and replace the occurrence of reference numeral 302 with new reference numerals 302A and 302B.

These amendments to the drawings and the specification have been structured to avoid the introduction of any new matter into the disclosure of the invention. It is respectfully submitted that these amendments cure the drawing objection raised in the Office Action, and notice to that effect is respectfully requested.

Objection to the Specification

The Examiner objected to the specification, on the ground that paragraphs [0013], [0035] and [0039] included references to claims that have been canceled. The foregoing amendments modify each of paragraphs [0013], [0035] and [0039] so as to replace each reference to a canceled claim with language extracted from that claim. This approach avoids the introduction of any new matter into the disclosure of the invention. It is respectfully submitted that amended paragraphs [0013], [0035] and [0039] are each in proper form, and notice to that effect is respectfully requested.

Objection to the Abstract.

The Examiner objected to the abstract, on the ground that it does not commence on a separate sheet. However, if the abstract provided to the Examiner does not commence on a separate sheet, then this is due to an internal PTO error, rather than any error by Applicants. In more detail, the present application was originally filed in the form of a PCT application designating the United States. As required by the PCT treaty, the PCT application was filed with an abstract on a separate sheet. When the PCT application was later nationalized into the present U.S. application, Applicants instructed the PCT branch of the USPTO to use a direct copy of the originally-filed PCT text, as provided to the USPTO by the World Intellectual Property Organization (WIPO, aka the International Bureau). As noted above, that original PCT text presented the abstract on a separate sheet, and the PCT Branch should have provided a copy of that same sheet to the Examiner. Apparently, in this application, the PCT Branch improperly provided the Examiner with something other than the single sheet of the PCT application that bears only the abstract. That is an error by the USPTO's PCT Branch, rather than an error by Applicants. Strictly speaking, it is the responsibility of the PCT Branch to correct its own error, and the Examiner's objection should have been directed to the PCT Branch, rather than to Applicants. Nevertheless, as a courtesy, Applicants are enclosing a copy of the PCT abstract on

a separate sheet, and it is respectfully submitted that it should cure the error made by the USPTO's PCT Branch, as well as the Examiner's objection.

Independent Claim 65

Independent Claim 65 stands rejected under 35 U.S.C. §102 as anticipated by Babowicz PCT Patent Application Publication No. 2002/075735. However, this ground of rejection is respectfully traversed, for the following reasons. In MPEP §2131, the PTO quotes relevant case law regarding §102, and explains that:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim . . . . *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In other words, to anticipate a claim under §102, a reference (1) must disclose each and every element recited in the claim, and (2) must also disclose these elements arranged in the manner recited in the claim. Applicants' Claim 65 recites:

generating primary data representative of m primary  
track(s) for the optical disc ( $m \geq 1$ );  
generating alternate data representative of n alternate  
track(s) for the optical disc ( $n \geq 1$ ); and

assembling a table of contents (TOC) for the optical disc,  
the TOC containing disc access control information which, when  
written to an optical disc, indicates to an optical disc data reader  
that there are m tracks in total written upon that optical disc.

Independent claim 65 thus specifies that, on an optical disc, the disc access control information indicates to an optical disc data reader that there are m tracks in total on the disc, where m represents the number of primary tracks. The disc disclosed in Babowicz is different. More specifically, Figure 4 of Babowicz is a flowchart showing a process used by Babowicz to create an optical disc. Reference numeral 400 designates a first step, in which Babowicz creates the first session of a multi-session compact disc (CD). This session includes data representative of all the CD-DA audio tracks that are on the disc, not just the m primary tracks. Reference numeral 408 designates another step in which a second session is created on the CD. At this point the second session is an “empty” session, in that there is no data contained in this second session. Data is added to the second session later, in step 410. This second session is therefore not data representative of n alternate tracks. Babowicz discloses elsewhere that this second session may contain a variety of digital data, specifically (a) an information file, (b) an HTML file and (c) encryption data (see page 7, lines 21-23). Reference numeral 404 designates a step in which selected control values in the table of contents (TOC) are set to non-standard values (see page 9, lines 1-2). Babowicz discloses (page 7, lines 10-15 and elsewhere) that this modification includes falsely identifying the audio tracks as containing digital data, rather than the audio material that they do actually contain. Thus, Babowicz’s disc has access control information indicating that certain tracks contain information different from what they actually contain. But Babowicz does not appear to teach that this disc access control information has anything specifying a total number of tracks on the disc that is different from the total number of tracks actually present on the disc.

Babowicz thus does not appear to disclose each and every element recited in Claim 65, and therefore does not meet the standard for anticipation under §102 that has been established by the courts and that is summarized in MPEP §2131. Claim 65 is therefore believed to be allowable over Babowicz, and notice to that effect is respectfully requested.

Independent Claim 40

Independent Claim 40 stands rejected under 35 U.S.C. §102 as anticipated by Babowicz. However, it is respectfully submitted that Claim 40 is distinct from Babowicz. As noted above, MPEP §2131 explains that, to anticipate a claim under §102, a reference (1) must disclose each and every element recited in the claim, and (2) must also disclose these elements arranged in the manner recited in the claim. Applicants' Claim 40 recites:

An optical disc comprising:  
a session that includes at least one primary track and at least one alternate track; and  
disc data access information, stored upon the disc, and which is read and utilized only by an optical disc data reader, the disc data access information being such as to prevent location of the, or at least one of the, primary track(s), when the disc is read by the optical disc data reader, and to direct the optical disc data reader instead to the, or an associated, alternate track.

Industry standards for CDs define the terms “session” and “track”, and these terms have respective specific meanings that are distinctly different. Persons skilled in this art are very familiar with what constitutes a “session”, and what constitutes a “track”. Claim 40 is directed to embodiments in which a disc has a primary track and at least one alternate track that are both located in the same session. In contrast, Babowicz is different. More specifically, Babowicz

discloses a disc with two different sets of data, where one set is readable only by an audio CD player, and the other set is readable only by an optical disc reader. Babowicz teaches that these two different sets of data are necessarily stored in different sessions. A CD that complies with current industry standards may have one or more sessions that each include data. Each such session includes a Table of Contents (TOC) that provides information for navigating the session and, in the case where there is more than one session, information about the location of previous sessions. In the case of the Babowicz CD, the first session contains audio data that is falsely identified by the TOC as digital data rather than audio data (see page 7, paragraph beginning at line 5). The second session contains digital data that is accurately designated as such. As a consequence of the fact that different types of CD readers use different parts of the TOC to navigate a disc, an audio CD player will read the first session (which includes audio data), without regard to the part of the TOC that falsely identifies the audio data as digital data. In contrast, an optical disc data reader reads the part of the TOC falsely identifying the audio data as digital data, and will respond by ignoring the first session and instead reading the second session.

The Babowicz disc thus causes an optical disc data reader to ignore data in one session in favor of other data in a different session. But the technique disclosed in Babowicz does not cause an optical disc data reader to ignore data in one session in favor of other data in that same session. Babowicz thus does not appear to disclose each and every element recited in Claim 40, and therefore does not meet the standard for anticipation under §102 that has been established by the courts, and that is summarized in MPEP §2131. Claim 40 is therefore believed to be allowable over Babowicz, and notice to that effect is respectfully requested.

#### Independent Claim 75

Independent Claim 75 stands rejected under 35 U.S.C. §102 as anticipated by Babowicz. However, it is respectfully submitted that Claim 75 is distinct from Babowicz. As noted above, MPEP §2131 explains that, to anticipate a claim under §102, a reference (1) must disclose each

and every element recited in the claim, and (2) must also disclose these elements arranged in the manner recited in the claim. Applicants' Claim 75 expressly recites:

A method of controlling access by an optical disc data reader to an optical disc having a session that includes at least one primary track and at least one alternate track, the method comprising the step of preventing the location of the, or at least one of the, primary track(s) when the disc is read by the said optical disc data reader, and directing the data reader instead to the, or an associated, alternate track.

Claim 75 is thus similar in one aspect to Claim 40, in that it is directed to embodiments in which a primary track and at least one alternate track are both located in the same session. Claim 75 is believed to be distinct from Babowicz for reasons similar to those discussed above in association with Claim 40. In particular, the Babowicz disc causes an optical disc data reader to ignore data in one session in favor of other data in a different session, but does not cause an optical disc data reader to ignore data in one session in favor of other data in that same session. Babowicz does not appear to disclose each and every element recited in Claim 75, and therefore does not meet the standard for anticipation under §102 that has been established by the courts, and that is summarized in MPEP §2131. Claim 75 is therefore believed to be allowable over Babowicz, and notice to that effect is respectfully requested.

#### Dependent Claims

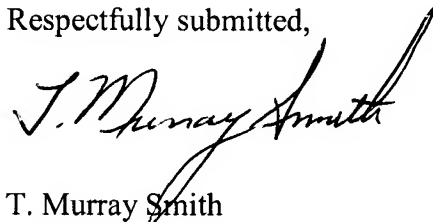
Claims 41-64, Claims 66-74 and Claims 76-77 respectively depend from Claim 40, Claim 65 and Claim 75, and are also believed to be distinct from the art of record, for example for the same reasons discussed above with respect to Claims 40, 65 and 75, respectively.



Conclusion

Based on the foregoing, it is respectfully submitted that all of the pending claims are fully allowable, and favorable reconsideration of this application is therefore respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8647.

Respectfully submitted,



T. Murray Smith  
Registration No. 30,222  
(972) 739-8647

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HAYNES AND BOONE, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202-3789  
Telephone: (972) 739-6900  
Facsimile: (214) 200-0853  
File: 36382.3

Enclosures: Petition for Time Extension  
Separate sheet bearing a copy of the abstract  
Replacement drawing sheets 2 and 3

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